

business customers in managing and controlling their long distance communications costs.² The electronic intelligent billing system is available to business customers in their electronic medium of choice, via Internet dial-up connection, diskette and CD-ROM format. C&W USA is concerned that, absent reconsideration and clarification as outlined below, the truth-and-billing requirements will actually hinder the customized communications invoicing options that the company currently makes available to its business customers.

C&W USA believes that Section 64.2001(a)(2)'s requirement that "new service providers" be highlighted on a telephone bill should be reconsidered to be limited only to the identification of new presubscribed carriers. C&W USA agrees with MCI-W, Qwest and TW Telecom that limiting the new service provider rule only to the identification of new *presubscribed* carriers on a telephone bill will fulfill the Commission's statutory basis for this proceeding, as set forth in Section 258 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 258, of deterring slamming.³ However, highlighting new dial-around services, operator-assisted, and other casual billed service providers on a telephone bill would be duplicative or otherwise unnecessary, where the customer has already indicated his or her

² Such features include: usage history reports that make it easy to spot variances in monthly usage patterns; summary by account code reports that save administrative time by eliminating the need to manually assign charges to clients or cost centers; PrecisionSM reports which track overall employee productivity as well as identify billable charges; call detail reports that itemize the complete details of each call so that a business customer can track usage costs by employee, cost center, client or project; and corporate invoice summary reports that allow business customers to forecast expenses and budget with confidence. For additional details on C&W USA's intelligent billing products, see (<http://www.cwusa.com>).

³ See Petition for Reconsideration and Clarification of MCI WorldCom, Inc. ("MCI-W"), filed on July 26, 1999, at 11; Comments of Qwest Communications Corp. ("Qwest"), filed on September 14, 1999, at 7-9; Comments of Time Warner Telecom, filed on September 14, 1999, at 4-6.

affirmative consent to such service by entering the requisite dial-around or casual calling code, and where existing laws such as the Telephone Operator Consumer Services Improvement Act, 47 U.S.C. § 226, already require clear and specific identification of an operator service provider. Accordingly, C&W USA supports reconsideration of Section 64.2001(a)(2) to limit the requirement that new service providers be highlighted on telephone bills only to new presubscribed carriers.

In addition, the Commission should reconsider the requirement set forth in Section 64.2001(c) that billing carriers distinguish between charges that will result in disconnection of local exchange service if unpaid (“deniable charges”) and those charges for which non-payment will not result in disconnection of local exchange service (“non-deniable charges”). C&W USA agrees with TW Telecom that, as a legal matter, the terms and conditions upon which local exchange service may be terminated are properly within state jurisdiction since basic local exchange service is an intrastate service. Furthermore, as a practical matter and as AT&T states in its comments,⁴ it will be an enormous and costly task to upgrade existing billing systems to track the numerous variations in existing and future state service disconnection for

⁴ See AT&T Comments, filed on September 14, 1999, at 1-2.

non-payment (“DNP”) policies.⁵ Accordingly, C&W USA supports the requests of MCI-W and AT&T that the deniable/non-deniable charge rule be eliminated.⁶

C&W USA further agrees with the petitioners that it is necessary to reconsider the Commission’s decision in the *First Report and Order* to mandate standardized labels for line item charges relating to federal regulatory action. As Qwest correctly observes, the prescription of standardized labels for such line items improperly restricts the content of carriers’ commercial speech in violation of the First Amendment, because less burdensome alternatives – such as the designation of a set of optional, “approved” terms which carriers may elect to use, or the prohibition of certain terminology – are available to the Commission to achieve its objective of minimizing the potential for misleading or deceptive billing line items relating to federal regulatory actions.⁷ What’s more, if the Commission finds it necessary to craft an affirmative agency policy on this issue, the specification of an approved “lexicon” of terms available to carriers at their election, rather than the mandate of exclusive terms, would provide carriers with flexibility in formatting the relevant portion of their bills to their particular operational circumstances and customers’ needs while also minimizing the potential for misleading labels.⁸

⁵ Certain states have very recently modified existing or proposed DNP policies in ways that may require substantial changes to the legacy billing systems of local exchange and interexchange carriers if compliance with the FCC’s deniable/non-deniable charge rule is required. For instance, Virginia recently adopted a new DNP policy that disallows disconnection of local exchange service for non-payment of long distance. *See Investigation of the Termination of Local Exchange Services for Failure to Pay for Long Distance Services*, Case No. PUC970113 (released on September 10, 1999).

⁶ *See* Comments of AT&T at 3; MCI-W Petition for Reconsideration and Clarification, at 8-9; Comments of MCI-W, filed on September 14, 1999, at 9-11.

⁷ *See* Comments of Qwest at 4.

⁸ *See* C&W USA Comments, filed in CC Docket No. 98-170, on July 12, 1999 at 3; *see also* Petition for Reconsideration of U S WEST, filed on July 26, 1999 at 18.

Accordingly, C&W USA supports the petitioners' request that the mandate of standardized labels for line item charges relating to federal regulatory actions be rescinded.⁹

Finally, C&W USA supports the reconsideration and clarification requested by MCI-W and AT&T that carriers not be liable for deviating from the truth-in-billing rules when customers have specifically requested or agreed to billing formats that are different from those specified in the *First Report and Order*. As MCI-W and AT&T observe, when customers negotiate specific billing formats that may deviate from the FCC's prescribed norm, it would be contrary to the public interest to hold the carrier liable for non-compliance with the truth-in-billing requirements.¹⁰ As noted above, C&W USA provides intelligent billing systems in a variety of formats, including electronic Internet dial-up, diskette, or CD ROM, at the request of its business customers. Furthermore, business customers may specifically request bulk billing for bundled offerings to maximize efficiency of their telecommunications operations. If carriers are forced to provide billing detail which business customers are uninterested in and therefore have not requested in negotiating a billing format, the truth-in-billing rules will deprive such customers of the benefit of negotiated billing formats. Forcing "one-size-fits-all" compliance with the truth-in-billing rules will threaten to deprive these customers of the benefits of customized options, and the cost- and time-savings of invoicing designed to maximize efficiency in bundling offerings. Accordingly, C&W USA requests that the Commission clarify that a billing carrier does not bear any liability for truth-in-billing compliance where a customer has negotiated a billing format that may deviate from the *First Report and Order*'s specified norms.

⁹ See AT&T Petition for Reconsideration at 2-3; U S WEST Petition for Reconsideration at 16-18; Qwest Comments at 3-6.

¹⁰ See *id.*

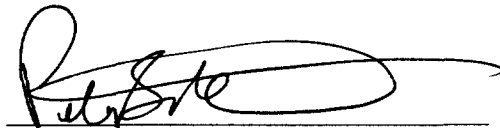
WHEREFORE, for the foregoing reasons, C&W USA strongly supports grant of the petitions for reconsideration or clarification as outlined above. C&W USA respectfully urges that the Commission: (1) reconsider the requirement that telephone bills highlight new service providers to be limited only to highlighting new presubscribed carriers; (2) eliminate the "deniable/non-deniable charge" rule; (3) reconsider and rescind the mandate of standardized labels for line items relating to federal regulatory actions; and (4) clarify that carriers are not subject to truth-in-billing liability with regard to negotiated billing arrangements.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Patricia A. Bell, hereby certify that on this 24th day of September, 1999 a copy of the **REPLY OF CABLE & WIRELESS USA, INC.** was delivered by hand and/or first-class mail* to the following:

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